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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Stephanie Bruns,

10 Plaintiff,

11 v.

12 Tucson Used Auto Sales, et al.,

13 Defendants.
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No. CV-22-00465-TUC-JGZ

ORDER

15 Pending before the Court is Plaintiff's Motion to Strike Defendant Tucson Used
16 Auto Sales' Answer for failing to obey the Court's order to obtain counsel and by failing
17 to defend. (Doc. 56.) Co-defendant Dur Saleh improperly filed a response to the motion on
18 Tucson Used Auto Sales' behalf. (Doc. 57.) Mr. Saleh has previously been warned that he
19 cannot represent Tucson Used Auto Sales because he is not an attorney. (Docs. 47, 49, &
20 53.) For the reasons stated below, the Court will grant the Plaintiff's motion.

21 **BACKGROUND**

22 On October 5, 2022, Plaintiff filed her complaint against the Defendants. (Doc. 1.)
23 On December 9, 2022, Defendant Tucson Used Auto Sales timely filed an answer to the
24 complaint through counsel. (Doc. 9.) On September 28, 2023, counsel for Tucson Used
25 Auto Sales and Dur Saleh withdrew from the case. (Doc. 45.) Defendant Tucson Used Auto
26 Sales was ordered to find new counsel by January 16, 2024. (Doc. 49.) To date, Defendant
27 has not done so.

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DISCUSSION


Plaintiff seeks to strike Defendant's answer under Federal Rule of Civil Procedure 16(f)(1)(C) for failing to obey a pretrial order. Pursuant to Rule 16(f)(1), upon a finding by the court that a party has failed to obey a pretrial order, the court may issue an order authorized by Rule 37(b)(2)(A)(iii) striking pleadings in part or whole, including an answer to the complaint. *See GlobalTranz Enterprises Inc. v. Shippers Choice Glob. LLC*, No. CV-16-04038-PHX-ROS, 2017 WL 2841224, at *1 (D. Ariz. June 2, 2017). A defendant business entity has failed to defend when failing to comply with a court order to retain counsel, and default may be entered against them. *See U.S. v. High Country Broad. Co.*, 3 F.3d 1244, 1245 (9th Cir. 1993).

Here, Defendant Tucson Auto Sales has been repeatedly warned by this Court that counsel is required for it to defend against Plaintiff's claims. (Docs. 47, 49, & 53.) The Court finds that Defendant has failed to obey the Court's order to find new counsel by January 16, 2024. (Doc. 49.) Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion to Strike Answer (Doc. 56) is **granted**.
2. The Clerk of Court must strike Defendant Tucson Auto Sales' Answer.

Dated this 4th day of March, 2024.


Jennifer G. Zippo
United States District Judge